

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**FISHER SAND & GRAVEL, CO., and  
FISHER SAND & GRAVEL - NEW MEXICO, INC.,**

**Plaintiffs,**

**v.**

**No. 10-cv-0635 RB/SMV**

**FNF CONSTRUCTION, INC.;  
PULICE CONSTRUCTION, INC.; GARY GIRÓN,  
MAX VALERIO; JED BILLINGS; and  
STEPHEN BASILA;**

**Defendants.**

**FIRST AMENDED SCHEDULING ORDER<sup>1</sup>**

THIS MATTER came before the Court on a Rule 16 scheduling conference, held on January 23, 2013.

In accordance with the Civil Justice Expense and Delay Reduction Plan adopted in compliance with the Civil Justice Reform Act, and pursuant to Title 28 U.S.C. § 473(a)(1), this case is assigned to a “**Complex**” track classification.

Plaintiffs should be allowed until **March 15, 2013**, to join additional parties and amend the pleadings (in compliance with the requirements of Fed. R. Civ. P. 15(a)). Defendants should be allowed until **April 15, 2013**, to join additional parties and amend the pleadings (in compliance with the requirements of Fed. R. Civ. P. 15(a)).

Plaintiffs shall identify to all parties in writing any expert witness to be used by Plaintiffs at trial and provide expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) no later than **May 31**,

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<sup>1</sup> This Scheduling Order is amended to reflect a particular change in the language regarding requests for production, which was requested by the parties. *See* [Doc. 171].

**2013.** All other parties shall identify in writing any expert witness to be used by such parties at trial and provide expert reports pursuant to FED. R. CIV. P. 26(a)(2)(B) no later than **June 30, 2013.**<sup>1</sup>

The termination date for discovery is **September 20, 2013**, and discovery shall not be reopened, nor shall case management deadlines be modified, except by an order of the Court upon a showing of good cause. This deadline shall be construed to require that discovery be completed on or before the above date. Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline. The pendency of dispositive motions shall not stay discovery.

Each party may propound no more than 100 requests for production to any other party. Plaintiffs, collectively, are limited to 20 depositions, and Defendants, collectively, are limited to 20 depositions.

Motions relating to discovery (including, but not limited to, motions to compel and motions for protective order) shall be filed with the Court and served on opposing parties by **October 10, 2013.** See D.N.M.LR-Civ. 7 for motion practice requirements and timing of responses and replies. This deadline shall not be construed to extend the twenty-day time limit in D.N.M.LR-Civ. 26.6.

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<sup>1</sup> Parties must formally disclose the identity of all testifying experts, even if the experts are not required to submit a Rule 26 expert report. See *Blodgett v. United States*, No. 2:06-CV-00565 DAK, 2008 WL 1944011, at \*5 (D. Utah, May 1, 2008).

Pretrial motions, other than discovery motions, shall be filed with the Court and served on opposing party by **October 21, 2013**. *See* D.N.M.LR-Civ. 7 for motion practice requirements and timing of responses and replies. Any pretrial motions, other than discovery motions, filed after the above dates shall, in the discretion of the Court, be considered untimely.

If documents are attached as exhibits to motions, affidavits or briefs, those parts of the exhibits that counsel want to bring to the attention of the Court must be highlighted in accordance with D.N.M.LR-Civ. 10.6.

Counsel are directed to file a consolidated final Pretrial Order as follows: Plaintiffs to Defendants on or before **December 6, 2013**; Defendants to Court on or before **December 20, 2013**. Counsel are directed that the Pretrial Order will provide that no witnesses except rebuttal witnesses whose testimony cannot be anticipated, will be permitted to testify unless the name of the witness is furnished to the Court and opposing counsel no later than thirty (30) days prior to the time set for trial. Any exceptions thereto must be upon order of the Court for good cause shown.



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**